

REMARKS

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The February 20, 2004 Official Action has been carefully considered. In view of the amendments submitted herewith and the following remarks, favorable reconsideration and allowance of this application are respectfully requested.

As a preliminary matter, Applicants' undersigned attorney wishes to direct the examiner's attention to the change of correspondence address included with this paper. Please address all future correspondence to Applicants' attorney at the new correspondence address.

Status of claims and prosecution:

Claims 1-6, 8-20, 24, 27, 30-32, 34-37 and 39 are pending. Claims 9, 11-15, 24, 27, 30-32 and 34 have been withdrawn from consideration. The specification has been objected to for lack of compliance with the requirements for nucleotide sequence disclosure as set forth in 37 C.F.R. §§1.821-1.825. Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §112, first paragraph, for alleged lack of adequate written description. Claims 1-6, 8, 10 and 16-20 stand rejected under 35 U.S.C. §112, second paragraph, for recitation of the terms "MOP3" or "MOP9" in claim 1, and "natural mutant" in claims 10 and 16. Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §102(a) on the basis of Hogenesch et al., J. Biol. Chem. 272: 8581-8593 (1997). Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §102(a) on the basis of Ikeda et al., Biochem. Biophys. Res. Comm. 233: 258-264 (1997). Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §102(b) on the basis of GenBank Accession number T77200 (1995) or H17840 (1995).

The Action states that the complete polynucleotide sequences of MOP3 and MOP9 set forth as SEQ ID NOS: 3 and 9, and encoding the complete polypeptide sequences set forth as SEQ ID NOS: 12 and 18 are free of the art of record. The Action further states that claims 10 and 16 recite these embodiments; however those claims are presently subject to other rejections.

In accordance with the present amendment, the specification has been amended such that all sequences set forth in the specification are accompanied by sequence identifiers, and to correct minor errors and update the priority information. Claims 9, 11-15, 24, 27, 30-32 and 34 are canceled without prejudice as drawn to a non-elected invention. In order to advance prosecution of the remaining claims, claims 1-6, 8, 35-37 and 39 are also canceled without prejudice and without acknowledgment of the correctness of any ground of rejection of any claim. Claims 10, 16-20 and new claims 44-47 (depending from claim 16 and paralleling the subject matter of claims 17-20) are currently pending. Claims 10, 16, 18 and 20 are amended herein. It is believed that the application is in condition for allowance, for the reasons set forth below.

The specification and Sequence Listing comply with all requirements of 37 C.F.R. §§1.821-1.825.

The specification has been objected to for lack of compliance with the requirements for nucleotide sequence disclosure as set forth in 37 C.F.R. §§1.821-1.825. Specifically, the Action alleges that sequence identifiers do not accompany each sequence set forth in the specification, and that the Sequence Listing currently of record does not contain all sequences set forth in the specification. In response to the first allegation, the specification has been amended so as to recite a sequence identifier in conjunction with each sequence set forth in the specification. For sequences shown in the drawings, the sequence identifiers have been added to the brief description of the drawings. Accordingly, the specification as amended is in full compliance with the requirements of 37 C.F.R. §§ 1.821-1.825. With respect to the allegation that the Sequence Listing does not contain all sequences recited in the specification, Applicants respectfully disagree. The Sequence Listing contains each and every one of SEQ ID NOS: 1-126 as they appear in the specification and/or drawings. Accordingly, the Sequence Listing is in compliance with the requirements of 37 C.F.R. §§ 1.821-1.825, and a new Sequence Listing should not be required. For the foregoing reasons, withdrawal of the objection to the specification is requested.

The claims satisfy the “written description” requirement of 35 U.S.C. §112, first paragraph.

Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §112, first paragraph, for alleged lack of adequate written description. The rejection as applied to the canceled claims is moot. Applicants respectfully traverse this rejection with respect to the remaining claims as amended.

Independent claims 10 and 16 have been amended so as to be directed to an isolated nucleic acid molecule having a sequence selected from the group consisting of SEQ ID NOS: 3 or 9, respectively, and a sequence encoding a polypeptide having amino acid SEQ ID NOS: 12 or 18, respectively. The Action (page 6, first full paragraph) acknowledges that the specification provides adequate written description for claims of this scope. Accordingly, the rejection of claims 10 and 16, and claims dependent therefrom under 35 U.S.C. §112, first paragraph, is no longer applicable and should be withdrawn.

The claims satisfy the “definiteness” requirement of 35 U.S.C. §112, second paragraph.

Claims 1-6, 8, 10 and 16-20 stand rejected under 35 U.S.C. §112, second paragraph, for recitation of the terms “MOP3” or “MOP9” in claim 1, and “natural mutant” in claims 10 and 16. The rejection as applied to the canceled claims is moot. Applicants respectfully traverse this rejection with respect to the remaining claims as amended.

Claims 10 and 16 have been amended to remove recitations of sequences comprising “natural mutants.” Therefore, the rejection of claims 10 and 16, and claims dependent therefrom under 35 U.S.C. §112, second paragraph, is no longer applicable and should be withdrawn.

The claims are directed to novel subject matter.

Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §102(a) on the basis of Hogenesch et al., J. Biol. Chem. 272: 8581-8593 (1997), and also on the basis of Ikeda et al., Biochem. Biophys. Res. Comm. 233: 258-264 (1997). Claims 1-6, 8, 10, 16-20, 35-37 and 39 stand rejected under 35 U.S.C. §102(b) on the basis of GenBank Accession number T77200 (1995) or H17840 (1995). The rejection as applied to the canceled claims is

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moot. Applicants respectfully traverse this rejection with respect to the remaining claims as amended.

The Action states that the complete polynucleotide sequences of MOP3 and MOP9 set forth as SEQ ID NOS: 3 and 9, and encoding the complete polypeptide sequences set forth as SEQ ID NOS: 12 and 18 are free of the art of record. The Action further states that claims 10 and 16 recite these embodiments. Since the subject matter of claims 10 and 16 has already been deemed to be novel in view of the cited references, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102(a) or (b) of claims 10 and 16, and claims dependent therefrom.

Conclusion:

In view of the amendments submitted herewith and the foregoing remarks, the presently pending claims are believed to be in condition for allowance. Applicants respectfully request early and favorable reconsideration and withdrawal of the rejections set forth in the February 20, 2004 Official Action, and allowance of this application.

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Respectfully submitted,


Janet E. Reed, Ph.D.
Registration No. 36,252

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439